

Message Text

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EXDIS

FROM USDEL LOS

FOR DEPUTY SECRETARY INGERSOLL AND UNDER SECRETARIES MAW AND
SISCO FROM AMBASSADOR MOORE

E.O. 11652: XGDS-3

TAGS: PLOS

SUBJ: STRAITS DISCUSSION WITH EGYPTIAN LOS DEL

REF: A. CAIRO 3614, B. 3974

1. SUMMARY. AMBASSADOR MOORE AND STUART FRENCH, OSD/ISA, MET WITH MOFID SHEHAB AND COMMODORE MOHAMED EL-CAZAR OF EGYPTIAN LOS DEL TO DISCUSS STRAITS ISSUES. IN CORDIAL MEETING SHEHAB STRESSED APPRECIATION FOR US RELATIONS WITH EGYPT AND INDICATED CAIRO WAS STUDYING US PROPOSAL TO HAVE STRAITS CONNECTING HIGH SEAS TO TERRITORIAL SEA OF A FOREIGN STATE IN CATEGORY OF NON-SUSPENDABLE INNOCENT PASSAGE IN CONVENTION POSSIBLY WITH ADDITIONAL CLAUSE PRESERVING LEGAL POSITION OF ALL PARTIES IN SUCH STRAITS. IMPRESSION RECEIVED THAT DIVISION OF STRAITS INTO TWO CATEGORIES WITH UNIMPEDED TRANSIT APPLYING ONLY IN STRAITS CONNECTING HIGH SEAS TO HIGH SEAS COULD ENABLE SUBSTANTIALLY RELAXED EGYPTIAN ATTITUDE ON SUPPORT FOR STRAITS. ALTHOUGH SHEHAB INDICATED CAIRO WOULD STUDY POSSIBILITY OF AMENDING EXISTING UK-FIJI STRAITS ARTICLES BY ADDING CLAUSE PRESERVING EXISTING LEGAL POSITION OF PARTIES IN SUCH STRAITS, IMPRESSION RECEIVED THAT NON-SUSPENDABLE INNOCENT PAS-

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SAGE IN CONVENTION MIGHT LARGELY SOLVE PROBLEM WITHOUT SUCH A

CLAUSE. IN REFERENCE TO THE MIDDLE EAST IN GENERAL SHEHAB, SPEAKING FROM NOTES, AFFIRMED EGYPT BELIEVES THE US CAN PLAY QUOTE A GREAT ROLE IN THE MIDDLE EAST UNQUOTE AND AT CLOSE OF MEETING QUOTED PRESIDENT SADAT AS SAYING THAT QUOTE I STILL HOPE SECRETARY KISSINGER WILL RESUME HIS MISSION IN PREPARATION FOR THE GENEVA CONFERENCE ON THE MIDDLE EAST. UNQUOTE.

2. IN DETAILED TWO HOUR EXCHANGE OF VIEWS ON STRAITS ISSUE AT REQUEST OF EGYPTIAN LOS DEL, MAFID SHEHAB OF EGYPTIAN DEL INDICATED MEETING WAS CONTINUATION OF LAST SUMMER'S TALKS WITH AMBASSADOR SHAFFIE AL-HAMID. HE SPOKE FROM DETAILED NOTES, MADE INITIAL PRESENTATION AND INDICATED HE WAS ACTING ON INSURUCTIONS FROM CAIRO. MEETING EXTREMELY FRIENDLY AND SHEHAB INDICATED THAT APPROACH MAKING DISTINCTION BETWEEN 2 CATEGORIES OF STRAITS -- I.E. HIGH SEAS TO HIGH SEAS AND HIGH SEAS TO TERRITORIAL SEA OF A FOREIGN STATE WAS QUOTE A POINT AHEAD UNQUOTE AND QUOTE WAS GREAT PROGRESS TOWARD CONCILIATION UNQUOTE.

3. SHEHAB RAISED A SERIES OF DETAILED QUESTIONS ON US PROPOSAL PARTICULARLY WHAT WAS MEANT BY NON-SUSPENDABLE INNOCENT PASSAGE IN STRAITS CONNECTING HIGH SEAS TO TERRITORIAL SEA OF A FOREIGN STATE. AMB. MOORE INDICATED WE WERE FAVORABLY INCLINED TOWARD EITHER EXISTING 1958 GENEVA CONVENTION OR NEW UK-FIJI PROPOSAL WHICH OBJECTIVIZED INNOCENT PASSAGE REGIME AS AN ALTERNATIVE. PRIOR TO DETAILED QUESTIONS ON NATURE OF REGIME SHEHAB REITERATED POINT THAT STRAITS IN TERRITORIAL WATERS ARE PART OF THOS WATERS AND SHOULD BE SUBJECT TO THE LEGAL REGIME OF TERRITORIAL WATERS. THIS POINT, HOWEVER, WAS NOT STRESSED.

4. MOORE POINTED OUT TO SHEHAB THAT SINGLE TEXT IN COMMITTEE II WOULD PROBABLY INCLUDE UK-FIJI PROPOSAL WITH NON-SUSPENDABLE INNOCENT PASSAGE IN STRAITS CONNECTING HIGH SEAS TO THE TERRITORIAL SEA OF A FOREIGN STATE. MOORE ALSO POINTED OUT THAT IN PRESENT FORM THESE ARTICLES DID NOT CONTAIN A CLAUSE PRESERVING THE EXISTING LEGAL POSITION OF PARTIES IN SUCH STRAITS. SHEHAB INDICATED CAIRO WOULD EXAMINE THE DESIRABILITY OF THIS BUT DID NOT SEEM ANXIOUS THAT SUCH A CLAUSE IN INCLUDED.

5. DURING COURSE OF MEETING MOORE MADE CLEAR THAT LEGAL REGIMES IN SECRET

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STRAITS CANNOT DIFFERENTIATE BETWEEN MILITARY AND COMMERCIAL VESSELS AND THAT WE CANNOT ACCEPT REGIME LESS THAN NON-SUSPENDABLE INNOCENT PASSAGE FOR STRAITS CONNECTING HIGH SEAS TO THE TERRITORIAL SEA OF A FOREIGN STATE. MOORE ALSO POINTED OUT THERE WERE A NUMBER OF STRAITS IN THIS LATTER CATEGORY INCLUDING THE HEAD HARBOR PASSAGE INTO EASTPORT, MAINE, WHICH GOES THROUGH CANADIAN TERRITORIAL WATERS.

6. DURING COURSE OF MEETING MOORE DISTRIBUTED APPLICABLE CLAUSE OF UK-FIJI TEXT (ARTICLE 8) AND ILLUSTRATIVE CLAUSE RESERVING LEGAL POSITION IN SUCH STRAITS IF THIS WAS FELT DESIRABLE. BOTH FOLLOW:

A. FROM PRESENT UK-FIJI TEXT

ARTICLE 8

1. IN STRAITS USED FOR INTERNATIONAL NAVIGATION BETWEEN ONE PART OF THE HIGH SEAS AND ANOTHER PART OF THE HIGH SEAS OTHER THAN THOSE STRAITS IN WHICH THE REGIME OF TRANSIT PASSAGE APPLIES IN ACCORDANCE WITH ARTICLE 1, OR BETWEEN ONE PART OF THE HIGH SEAS AND THE TERRITORIAL SEA OF A FOREIGN STATE, THE REGIME OF INNOCENT PASSAGE IN ACCORDANCE WITH THE PROVISIONS OF PART III OF CHAPTER TWO SHALL APPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE.

2. THERE SHALL BE NO SUSPENSION OF THE INNOCENT PASSAGE OF FOREIGN SHIPS THROUGH SUCH STRAITS.

3. THE PROVISION OF ARTICLE 3 OF THIS CHAPTER SHALL APPLY IN SUCH STRAITS.

B. ILLUSTRATIVE CLAUSE PRESERVING LEGAL POSITION

ADD NEW PARAGRAPH 4 TO UK ARTICLE 8, AS FOLLOWS:

4. THE PROVISIONS OF PARAGRAPHS 1 AND 2 OF THIS ARTICLE SHALL NOT AFFECT RIGHTS OR OBLIGATIONS ARISING UNDER INTERNATIONAL REGIMES AND CONVENTIONS RELATING TO A PARTICULAR STRAIT.

7. CONCERNING REFTEL (B), IF DEPT. CONCURS LOS DEL FEELS IT WOULD BE USEFUL FOR EMBASSY CAIRO TO MEET WITH AMBASSADOR OSMON AND INDICATE IMPORTANCE US ATTACHES TO MUTUAL SUPPORT FOR UNIMPEDED TRANSIT IN STRAITS CONNECTING HIGH SEAS TO HIGH SEAS AND MAKE POINT AMBASSADOR MOORE APPRECIATED RECENT CONSTRUCTIVE DISCUSSIONS WITH MAFID SHEHAB ON THESE ISSUES.DALE

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